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Free Trade Area of the Americas

Declaration of Ministers

Fifth Trade Ministerial Meeting

Toronto, Canada

4 November, 1999

1. We the Ministers Responsible for Trade of the 34 countries participating in the Free Trade Area of the Americas (FTAA) negotiations held our Fifth Ministerial Meeting in Toronto, Canada on November 3-4, 1999.
 2. We welcome the considerable progress that has been made in the FTAA negotiations during the initial eighteen-month stage under Canada's chairmanship — a goal we had set for ourselves at our last meeting in San José. We reaffirm the principles and objectives that have guided our work since Miami, including inter alia that the agreement will be balanced, comprehensive, WTO-consistent, and will constitute a single undertaking. We agree that we are on our way to completing our work by 2005.
 3. We believe in the importance of trade liberalization, both globally and regionally, in generating economic growth and prosperity in the Hemisphere, and we welcome the impetus being provided by the FTAA negotiations to further liberalization. We strongly support the widening and deepening process of economic integration in our Hemisphere, including sub-regionally, bilaterally and through the adoption of unilateral liberalization measures in some of our economies. Underlining the objective of the FTAA to eliminate progressively barriers to trade and investment and thereby stimulate world trade, we reiterate our commitment to avoid to the greatest extent possible the adoption of policies or measures that adversely affect trade and investment in the Hemisphere. We acknowledge the progress being achieved in implementing the commitments assumed by our governments in the Uruguay Round of multi-lateral trade negotiations, and the ongoing preparatory work in the run-up to the Third Ministerial Conference of the World Trade Organization in Seattle in December.
 4. Notwithstanding the many challenges that have confronted regional economies since our last meeting, including financial turbulence, economic downturns and natural disasters in a number of our countries, we are pleased that trade and investment flows across the Hemisphere have in general been maintained. We are convinced that the commitment of our countries to open economies, market-based principles and rules-based trading systems will contribute to a rapid recovery and growth in the most-affected economies.
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5. We reiterate that the negotiations of the FTAA shall take into account the broad social and economic agenda contained in the Santiago and Miami Declarations of Principles and Plans of Action with a view to contributing to raising living standards, to improving the working conditions of all peoples in the Americas, and to better protecting the environment. We reiterate that in designing the FTAA we shall take into account differences in the levels of development and size of the economies in our Hemisphere, to create opportunities for the full participation of the smaller economies and to increase their level of development. We recognize the broad differences in the levels of development and size of the economies in our Hemisphere, and we will remain cognizant of those differences in our negotiations so as to ensure that they receive the treatment that they require to ensure the full participation of all the countries in the construction and benefits of the FTAA. In order to comply with this, we instruct the TNC to begin immediately to examine the ways in which these differences could be treated in the negotiations, taking into account the treatment given to them in other fora, and provide continuing guidance to Negotiating Groups and report to us at our next meeting.
6. We welcome the benefits accruing from the FTAA process as a result of our early preparatory work. In addition to contributing to further economic integration, the FTAA process serves to strengthen cooperation among the principal international institutions in the Hemisphere. It has promoted the creation of many partnerships and networks amongst our business communities and other segments of civil society and, as a result, has brought about extensive information-sharing and knowledge-transfer between our governments. Looking ahead, we are confident that the FTAA will not only strengthen our community of the Americas but, by reducing and eliminating impediments to the free flow of goods, services and capital across our borders, will substantially improve the well-being of the citizens of all of our countries.

Progress and Next Steps in the Negotiations

7. Over the past eighteen months the Trade Negotiations Committee (TNC) has established the initial institutional foundation necessary to launch effective negotiations. In particular we welcome: the agreement on and progress being made in the implementation of work programs for each of the nine Negotiating Groups, the Consultative Group on Smaller Economies, the Committee of Government Representatives on the Participation of Civil Society, and the Joint Government-Private Sector Committee of Experts on Electronic Commerce; the establishment and functioning of the Administrative Secretariat in Miami – the initial site of the negotiations; progress towards the development of rules and procedures to govern the negotiations; and the creation of a TNC Subcommittee on Budget and Administration to strengthen financial management of the negotiations.
8. We reviewed and took note of the work done to date by the Negotiating Groups, including the preparation of annotated outlines of their respective chapters in an FTAA agreement. We welcome the progress made by each of the nine Negotiating Groups in carrying out their work programs as identified in their reports. In light of this progress, we instruct the Negotiating Groups to prepare a draft text of their

respective chapters, taking into account the progress made in the preparation of the annotated outlines for each area, recognizing that they should be viewed as frames of reference to facilitate the work of the Negotiating Groups and not as definitive or exclusive outlines of an agreement. The drafts should be remitted to the TNC no later than 12 weeks prior to our next Ministerial meeting to be held in Argentina in April 2001. The Negotiating Groups will have the objective of preparing a text that is comprehensive in scope and that contains the texts on which consensus was reached and places the texts on which consensus could not be reached between brackets. We also instruct all Negotiating Groups that have responsibility over issues of access to markets for goods and services to discuss the modalities and procedures for negotiations in their respective areas and report to the TNC.

9. We instruct the TNC to assemble the texts provided by the Negotiating Groups and to prepare a report for our consideration at the April 2001 Ministerial meeting indicating the areas in which our guidance is needed in light of the draft texts of an FTAA agreement prepared by the Negotiating Groups. Further, we instruct the TNC to begin discussions of the overall architecture of an FTAA agreement, e.g., general and/or institutional aspects of the Agreement, and include in its report for our consideration a summary of that discussion.
10. To carry out the work that we have requested, we agree that the TNC should hold at least three meetings during the next eighteen-months ending on April 30, 2001. The first meeting will be held in Guatemala by the end of April 2000. The second meeting is to be held in Barbados and the third meeting is to be held in Peru.

Structure and Organization

11. We reaffirm the TNC's central role in managing the FTAA negotiations, including guiding the work of the Negotiating Groups, the Committee of Government Representatives on the Participation of Civil Society, the Consultative Group on Smaller Economies and the Joint Government-Private Sector Committee of Experts on Electronic Commerce; ensuring transparency in the negotiations; overseeing the Administrative Secretariat; overseeing the implementation of approved business facilitation measures and identifying new business facilitation measures; addressing issues unresolved after due diligence at the level of the Negotiating Groups; and ensuring that progress is made in all of the Negotiating Groups and areas of negotiation in carrying out their objectives and mandates.
12. With respect to inter-relationships among the Negotiating Groups, in particular the instruction given to study the interaction between the Groups on Market Access and Agriculture and trade and competition policy, including antidumping measures, we reiterate the obligation of reporting to the TNC no later than December 2000.

Rotation of Chairs and Vice Chairs

13. We acknowledge and appreciate the work of the Chairmen and Vice Chairmen of the FTAA Negotiating Groups, Committees, and Consultative Group during the initial eighteen-month stage of the negotiations. Their efforts and professional dedication contributed significantly to the progress achieved to date. A new roster of the countries which will serve as the Chairs and Vice Chairs for the next eighteen-month period, which reflects the general guidelines on the rotation and selection of Chairs and Vice Chairs that we set in San José, is attached as Annex I to this Declaration.

Business Facilitation

14. We agree to a number of specific business facilitation measures as part of our continuing efforts to achieve progress in creating an FTAA. These measures reflect the substantive work that has emanated from the FTAA process to date. We have adopted a thematic approach to business facilitation and have concentrated our initial work in the areas of customs procedures and enhanced transparency in response to the priorities identified by our business communities.
15. We are pleased that resources have been identified in the Inter-American Development Bank for technical assistance to facilitate implementation of these measures, particularly in smaller economies. In particular we appreciate the willingness of the Multilateral Investment Fund to consider financial support for the implementation of these measures.
16. In the area of customs, we agree to implement, beginning on January 1, 2000, the eight specific measures set out in Annex II to this Declaration. These measures will contribute significantly to the conduct of business in the hemisphere by reducing transaction costs and creating a more consistent and predictable business environment.
17. The transparency measures outlined in Annex III will make our procedures and regulations better known and more accessible to the public. The information contained in Annex III will be kept current and relevant to our business communities and other interested parties, taking advantage of new technologies.
18. We agree that business facilitation is an ongoing process and we have directed the TNC:
 - a. to supervise the full implementation of these measures by the target date of our next Ministerial meeting;
 - b. to facilitate the provision of technical assistance for implementing the measures, in particular for the smaller economies;
 - c. to review progress and report to us at our next meeting; and
 - d. to identify, consider and recommend additional business facilitation measures, calling on experts as appropriate, and report to us at our next meeting.
19. We note that in addition to our work, initiatives that improve the business climate are proceeding in the hemisphere in other fora as part of the broader effort being made on trade and economic integration.

Relationship between the FTAA and the WTO

20. We reaffirm our commitment to the global, rules-based, trading system under the WTO, and our support for the launch of new, multilateral negotiations at the Third Ministerial Conference of the WTO in Seattle in December. While acknowledging that the FTAA and WTO processes are related, we stress the distinct aim of the FTAA negotiations – which is to create a Free Trade Area in a manner that is consistent with the relevant WTO provisions. We therefore reiterate our intention to pursue the FTAA negotiations with intensity and in accordance with our established timelines.
21. With respect to the future multilateral negotiations on agriculture, we agree:
 - a. To work towards the objective of reaching an agreement, during the next WTO Multilateral Negotiations on Agriculture, on the elimination of export subsidies on agricultural products and on the prohibition of their reintroduction in any form;
 - b. To work towards the earliest compliance of all commitments under the Uruguay Round Agreement on Agriculture; and
 - c. To work towards having disciplines on other trade distorting practices and measures in the next WTO Multilateral Negotiations on Agriculture.
22. Moreover, we are of the view that the agenda for the forthcoming WTO negotiations should be balanced to respond to the interests of all economies. It should also be sufficiently broad-based to allow for meaningful negotiations.
23. We also agree that the interests of developing economies, including the smaller economies of the FTAA, should be addressed through enhanced attention to the effective implementation of special and differential treatment and other WTO provisions affecting developing countries and increased support for capacity building and technical assistance, so as to facilitate their ability to participate fully in and benefit from the WTO.
24. We further agree to communicate the substance of these agreements to the WTO General Council at the earliest opportunity.

Other Issues

25. We reaffirm our commitment to the principle of transparency in the negotiating process and to conducting our negotiations in such a manner as to broaden public understanding and support for the FTAA. We established the Committee of Government Representatives on the Participation of Civil Society as a mechanism to fulfill this commitment, and we welcome the report presenting the range of views received by the Committee from individuals and organizations in the hemisphere. We have discussed the submissions and directed the Committee to obtain ongoing input from Civil Society on trade matters relevant to the FTAA through written submissions, using the San José Declaration as the frame of reference, and to provide a report outlining the full range of views received for our consideration at our next meeting.
26. We take note of the recommendations from the Fifth Americas Business Forum. The recommendations we have received from previous ABFs, as well as those received here in Toronto, serve as valuable input into the FTAA process. The proposals received from our business communities have been particularly helpful in shaping our work on business facilitation within the FTAA.

27. We thank the Joint Government-Private Sector Committee of Experts on Electronic Commerce for its detailed report and we note its many recommendations on broadening the benefits of electronic commerce. This report will be shared with other relevant authorities within our governments and with the public at large. We agree that the Joint Committee should continue to meet over the next eighteen-month period as a non-negotiating group. The focus of its work should be to develop recommendations in time for our next meeting in compliance with the Committee's mandate.
 28. With respect to the smaller economies, we take note of the report of the Consultative Group on Smaller Economies, and agree with the recommendations of the Consultative Group that have been accepted by the TNC concerning further work during the next stage of the negotiations. We reiterate the importance we attach to the effective operation of the Consultative Group and call upon the TNC to take into account, in its deliberations, including in the drafting of the Negotiating Group texts, and in its report to us in April 2001, its findings and recommendations in order to create the opportunities for the full participation of the smaller economies and to increase their level of development.
 29. We request that the Tripartite Committee:
 - a. disseminate through the FTAA Home page an inventory of training opportunities available in FTAA-relevant areas of trade policy and negotiation for both government officials and the private sector in the region in order to facilitate access to technical assistance;
 - b. explore opportunities for technical assistance to facilitate the organization of an inventory of measures which affect trade in services; and the establishment of a work program to improve statistics on trade in services;
 - c. explore opportunities for technical assistance to help countries, where necessary, establish national contact points that could provide information on national legislation and other measures affecting trade in services in the hemisphere;
 - d. maintain on an ongoing basis a calendar of deadlines established by the Negotiating Groups for inputs from delegations; and
 - e. assist FTAA governments through the mechanism of the Consultative Group on Smaller Economies to identify possible sources of technical assistance based on the existing database prepared by the Tripartite Committee and the needs as identified by countries.
 30. We recognize and appreciate the analytical, technical and financial support that continues to be provided by the institutions comprising the Tripartite Committee — namely the Inter-American Development Bank, the Organization of American States and the United Nations Economic Commission for Latin America and the Caribbean. This support has been essential to the conduct of the negotiations to date, and we ask the institutions of the Tripartite Committee to continue to provide such assistance for FTAA-related matters.
 31. We acknowledge the logistical support to the negotiations provided by the Administrative Secretariat. We appreciate the support of the various levels of government and the citizens of Florida for the Administrative Secretariat during this first phase of the negotiations and look forward to their continuing support during the period in which the Secretariat remains in Miami. We also acknowledge the financial
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support of the institutions of the Tripartite Committee, in particular the Inter-American Development Bank, to the Administrative Secretariat. We instruct the Chairman of the TNC to make the necessary requests to the Tripartite Committee institutions in order to obtain the support for the operations of the Administrative Secretariat in Panama. In order to maintain the momentum of the FTAA process, we support the formal request which the TNC Chair will present in due time to the institutions of the Tripartite Committee to support the operation of the Administrative Secretariat in Panama. Furthermore, we request a favourable response from the Tripartite Committee institutions to such a petition in order to facilitate the relocation, as well as to ensure the continuation of the negotiations in the new site.

Acknowledgement

32. We thank Argentina, Suriname, Bolivia and the United States for hosting meetings of the TNC and Canada for its chairmanship of the FTAA negotiations during the first phase of the negotiations and its hosting of the Toronto Ministerial Meeting. We look forward to our next Ministerial meeting in Argentina in 2001.

ANNEX I

Rotation of Chairs and Vice-Chairs for FTAA Negotiating Groups, Committees and Consultative Group November 1999 - March/April 2001

FTAA NEGOTIATING GROUPS		CHAIR	VICE-CHAIR
1	Market Access	Chile	Barbados
2	Investment	Trinidad & Tobago	Colombia
3	Services	U.S.A.	Peru
4	Government Procurement	Canada	Chile
5	Dispute Settlement	Costa Rica	Peru
6	Agriculture	Brazil	Ecuador
7	Intellectual Property Rights	Mexico	Paraguay
8	Subsidies, Anti-Dumping and Countervailing Duties	Venezuela	Uruguay
9	Competition Policy	Colombia	Canada

OTHER FTAA ENTITIES		CHAIR	VICE-CHAIR
1	Consultative Group on Smaller Economies	Guatemala	Bahamas
2	Committee of Government Representatives on the Participation of Civil Society	Bolivia	
3	Joint Government-Private Sector Committee of Experts on Electronic Commerce	Uruguay	Canada

ANNEX II

Customs-Related Measures

1. TEMPORARY IMPORTATION / TEMPORARY ADMISSION OF CERTAIN GOODS RELATED TO BUSINESS TRAVELLERS:

Establish new or streamline existing customs procedures for the entry of, and suspension of duties on, promotional documents and other goods related to business travel, whether or not these goods accompany the business traveller.

PRIMARY ELEMENTS:

- i. Provide for suspension of customs duties
- ii. Identify promotional documents and other goods that do not require guarantees upon entry
- iii. Establish streamlined procedures for promotional documents and other goods that remain in the country
- iv. Establish an allowable time period for temporary importation/temporary admission
- v. Where possible, minimize the cost and administrative complexity of obtaining guarantees for temporary importation/temporary admission. Where possible, the amount of guarantees required should not exceed the amount of duties otherwise payable
- vi. Under normal circumstances, documentation and approval should be provided upon entry of the business traveller

2. EXPRESS SHIPMENTS:

Develop and implement procedures to expedite express shipments, taking into account the WCO Customs Guidelines for Express Consignments Clearance and the Cancun Memorandum, while maintaining the appropriate control and customs selection.

PRIMARY ELEMENTS:

- i. Provide for separate expedited customs processing for express shipments
- ii. Provide for pre-arrival processing of information and data related to express shipments
- iii. Permit submission of a single manifest covering all of the goods in the shipment by the express service company, through electronic or other means
- iv. Where possible, and with the appropriate guarantees, provide for the release of certain goods through submission of minimal documentation and/or deferred payment
- v. In normal circumstances, express shipments should be released by customs authorities within 6 hours of the submission of necessary customs documentation provided the goods have arrived
- vi. In response to requests from express shipment companies, consideration could be given to providing extended hours of service and/or customs processing at premises under the control of the customs authority, at the discretion of customs authorities

3. SIMPLIFIED PROCEDURES FOR LOW VALUE SHIPMENTS:

Establish simplified, streamlined and expedited procedures for low value shipment transactions while maintaining the appropriate customs control and selection.

PRIMARY ELEMENTS:

- i. Establish minimal documentation, data and procedural requirements based on value of goods while maintaining the appropriate customs control and selection
- ii. Develop procedures to permit the electronic submission of information

4. COMPATIBLE ELECTRONIC DATA INTERCHANGE (EDI) SYSTEMS AND COMMON DATA ELEMENTS:

Establish compatible electronic data interchange systems between traders and customs administrations that foster expedited clearance procedures. Develop a core set of data elements required for the administration of national customs regulations and requirements associated with the customs clearance of goods.

Encourage the establishment of compatible electronic data interchange systems between customs administrations that foster increased cooperation and information exchange. Develop parameters for the bilateral or plurilateral exchange of information related to compliance with customs regulations and requirements.

PRIMARY ELEMENTS:

- i. Develop electronic systems accessible to the trading community
- ii. Develop capacity for electronic submission and processing of information and data prior to arrival of the shipment
- iii. Develop capacity for customs electronic/automated systems to work in conjunction with risk analysis and targeting
- iv. Work towards developing compatible electronic systems among customs administrations
- v. As an initial phase, identify current data elements used in electronic systems established per elements (i) to (iv) required by each customs administration, including, if feasible, those data elements required to determine admissibility of entries or those required by other agencies
- vi. Work towards developing a set of common data elements for customs clearance of goods

5. HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM:

Apply the 1996 Harmonized Commodity Description and Coding System, at the six digit level.

6. CUSTOMS INFORMATION DISSEMINATION/HEMISPHERIC GUIDE ON CUSTOMS PROCEDURES:

Disseminate widely in the most user-friendly manner, basic up-to-date information on customs procedures, laws, regulations, guidelines, and administrative rulings, taking into account the Hemispheric Guide on Customs Procedures prepared by the Working Group on Customs Procedures and Rules of Origin.

PRIMARY ELEMENTS:

- i. Update the Hemispheric Guide on Customs Procedures
- ii. Disseminate the updated Hemispheric Guide on Customs Procedures through the FTAA Home Page
- iii. Establish hyperlinks from the FTAA Home Page to national customs administrations' homepages for future updates to the country-specific information contained in the Hemispheric Guide on Customs Procedures

7. CODES OF CONDUCT FOR CUSTOMS OFFICIALS:

Elaborate and implement national codes of conduct applicable to customs officials, taking into account the Arusha Declaration.

PRIMARY ELEMENTS:

- i. Introduction of, or amendment to, national codes of conduct, legislation, policies or regulatory instruments applicable to customs officials with provisions on standards of conduct, conflict of interest, and possible sanctions and disciplinary action
- ii. Review of the 12 elements contained in the WCO Arusha Declaration for assessment of current practices and development of national implementation programs

8. RISK ANALYSIS/ TARGETING METHODOLOGY:

Encourage risk management systems used as criteria for required verification activities, while respecting the confidentiality of information. The objective would be to allow for focusing of customs enforcement activities on high-risk goods and travellers while facilitating clearance and movement of low-risk goods.

PRIMARY ELEMENTS:

- i. Develop processing and release customs procedures and systems that include risk analysis and targeting to identify high-risk goods, shipments and travellers
 - ii. Risk analysis through pre-arrival processing of information and data to identify or target high risk-goods, shipments and travellers that will be subject to inspection and/or other customs procedures
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ANNEX III

Transparency-Related Measures

1. Disseminate and periodically update information on tariffs and trade flows prepared in the context of the Negotiating Group on Market Access through the FTAA Home Page.
2. Publish and disseminate the document "National Practices on Standards, Technical Regulations and Conformity Assessment in the Western Hemisphere" prepared by the FTAA Working Group on Standards and Technical Barriers to Trade.
3. Disseminate and periodically update the list of national contact points that provide information on national legislation and other measures affecting trade in services. This information will include name, title, office, address, telephone, fax and e-mail.
4. Disseminate through the FTAA Home Page the existing procedures and requirements for temporary entry of business persons in each of the FTAA countries.
5. Periodic dissemination of the statistical "Report on Foreign Investment in Latin America and the Caribbean" prepared by ECLAC by linking it to the FTAA Home Page.
6. Disseminate through the FTAA Home Page and periodically update information on commercial arbitration regimes existing in the countries of the Hemisphere, including the institutions that provide commercial arbitration services.
7. Disseminate through the FTAA Home Page and periodically update the "Compendium on Antidumping and Countervailing Duties Laws in the Western Hemisphere", which includes information on national legislation and contact points.
8. Disseminate through the FTAA Home Page and periodically update the "Inventory of Domestic Laws and Regulations Referring to Competition Policies in the Western Hemisphere."
9. Disseminate through the FTAA Home Page and periodically update the "Inventory of Dispute Settlement Mechanisms, Procedures and Legal Texts Established in Existing Trade and Integration Agreements, Treaties and Arrangements in the Hemisphere and in the WTO."
10. Make information on government regulations, procedures, and competent authorities more accessible, including via the use of Internet links to the FTAA Home Page, in the following areas:
 - a. government procurement;
 - b. subsidies, antidumping and countervailing duties;
 - c. competition policy;
 - d. services;
 - e. intellectual property rights;
 - f. investment;
 - g. market access, which includes standards;
 - h. agriculture, which includes sanitary and phytosanitary measures; and
 - i. dispute settlement.

In addition to the above, a number of related inventories are also included on the official FTAA Home Page. New documents and inventories will be posted on the FTAA Home Page as they become available. Existing information will be updated periodically to ensure that they are kept current and relevant to our business communities and other interested stakeholders.

